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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,225	05/02/2001	David S. Gress	95-460	7396

23164 7590 01/02/2004  
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EXAMINER

FARKHONDAR TONSEY, FARIMA

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 01/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/846,225

Applicant(s)

GRESS ET AL

Examiner

Farima Farkhondar

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-20,22-31,33-41 is/are rejected.
- 7) ☒ Claim(s) 2, 21, and 32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/10/2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

## **DETAILED ACTION**

### ***Specification***

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show SMPT interface 50 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-5, 7-8, 12, 14, 16, 20, 22-24, 26-27, 31, 33-35, 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Schwelb et al., US Patent 5950123, in view of Jones, US Patent 5832221 and Luther, US Patent 5640590.

Regarding claims 1, 12, 20, and 31, Schwelb et al., discloses a method in a server configured for executing messaging operations, the method comprising: receiving a

text-based message, a messaging destination, and outputting the audible message for delivery to the messaging destination (column 6, lines 9-20). Schwelb does not disclose receiving a short message service (SMS) message that specifies a text-to speech messaging command. However, Jones teaches receiving a short message service (SMS) message that specifies a text-to speech messaging command (column 8, lines 51-59). Therefore at the time of invention, it would have been obvious to a person of ordinary skill in the art, to modify Schwelb with the above teachings of Jones, so the sender has the option to tell server to convert to voice when sender knows the preferred format (as suggested by Jones, column 8, 51-55). Schwelb does not disclose detecting the text to speech messaging command during parsing of the SMS message; invoking a text-to speech resource for conversion of the text-based message into an audible message in response to detecting the text-speech messaging command. However, Luther discloses detecting the text to speech messaging command during parsing of the SMS message; invoking a text-to speech resource for conversion of the text-based message into an audible message in response to detecting the text-speech messaging command (column 4, lines 24-30, and lines 51-54, see also blocks 302 and figure 3 and S318 in figure 3b). Therefore at the time of invention, it would have been obvious to a person of ordinary skill in the art, to modify Schwelb with the above teachings of Luther, order to avoid the possibility of desynchronization between the speech commands and the text with which those commands are associated (as suggested by Luther, column 4, lines 24-30).

Regarding claims 3, 22 and 33 the combination of Schwelb, Jones, and Luther further discloses the detecting step includes detecting the text-to-speech messaging command as prescribed character within the SMS message (Luther - column 3, lines 43-53, and column 4, lines 23-29).

Regarding claims 4, 23 and 34, the combination of Schwelb, Jones, and Luther further discloses the detecting step further includes detecting the text-to-speech messaging command (Luther – column 4, lines 24-30) except for the text-to-speech command being adjacent to the messaging destination. Since applicant has not disclosed that this limitation solves any stated problem or is for any particular purpose, it would have been obvious to a person of ordinary skill in the art, to place the command next to the message destination, in order to allow the server to easily detect the text-to-speech command.

Regarding claims 5, 14, 24, and 35, the combination of Schwelb, Jones, and Luther further discloses the invoking step includes issuing a procedure call to the text-to-speech resource, the text to speech resource executable within the server (Jones – element 750 in figure 1, also see column 9, lines 54-61, and Luther – column 4, lines 23-30).

Regarding claims 7, 26, and 37, the combination of Schwelb, Jones, and Luther further discloses the outputting step includes outputting a notification message, including the

audible message and specifying the message destination, to a notification resource configured for notifying the messaging destination with the audible message (Jones – column 8, lines 39-61).

Regarding claims 8, 27, and 38, the combination of Schwelb, Jones, and Luther further discloses the outputting step further includes generating the notification message including the audible message, the messaging destination, and a prescribed command specifying immediate notification the messaging destination (Jones – column 9, lines 42-53).

Regarding claim 16, see the rejection of claims 7 and 8 as discussed above.

4. Claims 6, 9-11, 13, 15, 17-19, 25, 28-30, 36, and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Schwelb et al., US Patent 5950123, in view of Jones, US Patent 5832221 and Luther, US Patent 5640590, and further in view of Spielman et al., US Patent 6665378.

Regarding claims 9, 17, 28 and 39, the combination of Schwelb, Jones, and Luther discloses the outputting step further includes outputting a notification message (Jones – column 9, lines 42-53). The combination of Schwelb, Jones, and Luther does not disclose notification message is according to SMTP protocol. However, Spielman discloses notification message is according to SMTP protocol (column 5, lines 21-32).

Therefore, at the time of invention, it would have been obvious to a person of ordinary skill in the art to modify the combination of Schwelb, Jones, and Luther with the above teaching of Spielman, so that the message notification can be sent using e-mail message (as suggested by Spielman, column 5, lines 25-29).

Regarding claims 10, 18, 29, and 40 the combination of Schwelb, Jones, Luther, and Spielman further discloses obtaining an e-mail destination for the notification message by accessing a subscriber profile directory based on the messaging destination and according to LDAP protocol. (Spielman – column 7, lines 40-51).

Regarding claims 6, 11, 15, 19, 25, 30, 36, and 41, the combination of Schwelb, Jones, and Luther discloses the outputting step (Jones – column 9, lines 42-53). The combination of Schwelb, Jones, and Luther does not disclose the outputting step includes: requesting a voice over IP resource to establish an audible connection with the messaging destination; and playing the audible message in response to establishment of the audible connection. However, Spielman discloses the outputting step includes: requesting a voice over IP resource to establish an audible connection with the messaging destination; and playing the audible message in response to establishment of the audible connection (column 5, lines 41-47). Therefore, at the time of invention, it would have been obvious to a person of ordinary skill in the art to modify the combination of Schwelb, Jones, and Luther with the above teaching of

Spielman, so that the voice over IP calls can be made (as suggested by Spielman, column 5, lines 41-47).

Regarding claim 13, the combination of Schwelb, Jones, Luther further discloses the interface is configured for receiving the SMS message (Schwelb – column 6, lines 9-20). The combination of Schwelb, Jones, Luther does not disclose the interface is configured for receiving the SMS message according to SMPP protocol. However, Spielman discloses the interface is configured for receiving the SMS message (column 1, lines 50-57). Therefore, at the time of invention, it would have been obvious to a person of ordinary skill in the art to modify the combination of Schwelb, Jones, and Luther with the above teaching of Spielman, so that existing and established standards such as SMPP can be used for receiving SMS messages.

***Allowable Subject Matter***

5. Claims 2, 21, and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 2, 21, and 32 the combination of Schwelb, Jones, and Luther does not disclose the limitations as specified in the claims.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farima Farkhondar-Tonsey whose telephone number is 703-305-6285. The examiner can normally be reached at 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vo Nguyen can be reached on 703-308-6728. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service whose telephone number is 703-306-0377.

Farima Farkhondar-Tonsey  
Examiner  
December 29, 2003



NGUYENT.VO  
PRIMARY EXAMINER